

EXHIBIT D

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HAYDEN,

Plaintiff,

v.

2K GAMES, INC. et al.,

Defendants.

CASE NO. 1:17-cv-02635-CAB

JUDGE CHRISTOPHER A. BOYKO

DEFENDANTS' PROPOSED JURY VERDICT FORM

JURY VERDICT FORM

1. Do you find that Plaintiff James Hayden (“Plaintiff”) proved by a preponderance of the evidence that he owns valid copyrights in the following works?

	Yes (for Plaintiff)	No (for Defendants)
Gloria	_____	_____
Lion	_____	_____
Shoulder Stars	_____	_____
Fire	_____	_____
Scroll	_____	_____
Brother’s Keeper	_____	_____

Proceed to Question 2.

2. Do you find that Plaintiff’s application for copyright registration for the following works contains inaccurate information that Plaintiff knew was inaccurate?

	Yes (for Defendants)	No (for Plaintiff)
Lion	_____	_____
Fire	_____	_____
Scroll	_____	_____
Brother’s Keeper	_____	_____

*If you answered “NO” to each part of **Question 1**, skip the remaining questions, proceed to the end of the verdict form, and execute the signature page.*

*If you answered “YES” to any part of **Question 1**, proceed to Question 3.*

3. For any of the works for which you selected “Yes” in Question 1, do you find that protectable expression in that work is substantially similar to *NBA 2K*?

	Yes (for Plaintiff)	No (for Defendants)
Gloria	_____	_____
Lion	_____	_____
Shoulder Stars	_____	_____
Fire	_____	_____
Scroll	_____	_____
Brother’s Keeper	_____	_____

If you answered “NO” to each part of Question 3, skip the remaining questions, proceed to the end of the verdict form, and execute the signature page.

If you answered “YES” to any part of Question 3, proceed to Question 4.

4. For any of the works for which you selected “Yes” in Question 1, do you find that Defendants contributorily infringed Plaintiff’s valid copyrights in that work?

	Yes (for Plaintiff)	No (for Defendants)
Gloria	_____	_____
Lion	_____	_____
Shoulder Stars	_____	_____
Fire	_____	_____
Scroll	_____	_____
Brother’s Keeper	_____	_____

Proceed to Question 5.

5. For any of the works for which you selected “Yes” in Question 1, do you find that Defendants vicariously infringed Plaintiff’s valid copyrights?

	Yes (for Plaintiff)	No (for Defendants)
Gloria	_____	_____
Lion	_____	_____
Shoulder Stars	_____	_____
Fire	_____	_____
Scroll	_____	_____
Brother's Keeper	_____	_____

If you answered "NO" to each part of Question 4 AND Question 5, skip the remaining questions, proceed to the end of the verdict form, and execute the signature page.

If you answered "YES" to any part of Question 4 OR Question 5, continue to Question 6.

6. Do you find that Defendants have proven their license defense by a preponderance of the evidence?

No _____ (for Plaintiff)

Yes _____ (for Defendants)

Proceed to Question 7.

7. Do you find that Defendants have proven their waiver defense by a preponderance of the evidence?

No _____ (for Plaintiff)

Yes _____ (for Defendants)

Proceed to Question 8.

8. Do you find that Defendants have proven their fair use defense by a preponderance of the evidence?

No _____ (for Plaintiff)

Yes _____ (for Defendants)

Proceed to Question 9.

9. Do you find that Defendants have proven their *de minimis* use defense by a preponderance of the evidence?

No _____ (for Plaintiff)

Yes _____ (for Defendants)

*If you answered "YES" to any of Questions 6, 7, 8, **OR** 9, skip to the end of the verdict form.*

*If you answered "NO" to all of Questions 6, 7, 8, **AND** 9, proceed to Question 10.*

10. Do you find that Plaintiff is entitled to an award of actual damages?

Yes _____ (for Plaintiff)

No _____ (for Defendants)

If you answered "YES" to Question 10, proceed to Question 11.

If you answered "NO" to Question 10, skip to Question 12.

11. What is the dollar amount of actual damages that you find that Plaintiff is entitled to recover from Defendants' use of the works for which you selected "YES" in Question 1?

\$ _____

Proceed to Question 12.

12. Do you find that any of Defendants' profits are attributable to the Tattoos that Plaintiff inked and are not taken into account with actual damages?

Yes _____ (for Plaintiff)

No _____ (for Defendants)

If you answered "YES" to Question 12, proceed to Question 13.

If you answered "NO" to Question 12, skip the remaining questions and proceed to the end of the verdict form.

13. What is the dollar amount of Defendants' profits that you find that Plaintiff is entitled to recover from Defendants' use of the Tattoos that Plaintiff inked?

\$ _____

You have reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. Each juror should then sign and date the verdict form in the spaces below and notify the Marshal that you have reached a verdict.

Each juror should place his or her signature on the lines below.

I attest that the foregoing accurately reflects the jury's decision.

1. _____
Foreperson

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

Dated: _____, 2022

You are finished. Please provide this completed form in a sealed envelope to the Marshal.